United Nations A/HRC/30/NGO/56

General Assembly

Distr.: General
4 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 10
Technical assistance and capacity-building

Written statement* submitted by the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15011(E)

Please recycle

Moving forward to the rule of law, good governance, and judicial reform in Somalia*

International Educational Development, Inc. and the Association of Humanitarian Lawyers have worked on the situation in Somalia for a number of years.[1] Our most recent report—prepared for the UNHRC's 24th session—called for prioritizing judicial reform.[2] In this statement we provide comments on the current situation in Somalia, the two visits of the Independent Expert, and suggestions for achieving the goals of the rule of law and good governance

The current situation in Somalia

The situation in Somalia in 2015 has seen a marked deterioration of security evinced by armed attacks against humanitarian workers, bombing attacks in Mogadishu, an attack in April in Garowe against UNICEF personnel, a June 2015 car bomb attack at a AMISOM base that killed more than 50 Burundian soldiers. The humanitarian situation also remains dire, with food security and largescale displacement of the civilian population primary concerns. The situation in the IDP camps is particularly distressing. The political situation is volatile, with President Hassan Sheikh Mohamoud delaying the elections planned for 2016 due to al-Shabab violence. The human rights situation remains critical with continuing gender-based violence and rapes, curtailment of rights essential to the democratic process such as freedom of expression and the safety of journalists, and the conditions in prisons falling far short of the Standard Minimum Rules.

United States President Obama's July 2015 visit to Kenya highlighted the serious situation in Somalia while stressing the importance of the regional military cooperation. He also stressed the importance establishing regional security and the role of a secure Somalia in this regard. The Security Council has authorized the member states of the African Union to continue deployment of AMISOM.

Activities of the Independent Expert

We were pleased that the Independent Expert was able to carry out two missions to Somalia and that he was able to address concerns we have raised in our written and oral statements such as the compelling need for judicial reforms and the unacceptable numbers of custodial rapes. For example, in stressing the need for judicial reforms, he voiced concerns that the lack of resources and the negative role of military courts were undermining effort in this regard.[3] He further noted the lack of capacity of police forces to investigate and prosecute victims of rape as well as the need for increased recruitment of both men and women in the police forces.[4]

Continued need for action regarding judicial reform

While the need for judicial reform is eminently clear, formulating recommendations and actually carrying them out is especially challenging given the current situation in Somalia.[5] We have commented on the fragmentation of the judiciary, with military courts, civilian courts, traditional courts (Shari'a and Xeer for example), piracy initiatives, and other systems in competition. There is a dire need for harmonizing these and in a way that meets minimum international

---

[1] Association of Humanitarian Lawyers researcher Tabeetha Sun assisted in the preparation of this document. Please see our prior statements: A/HRC/15/NGO/73, A/NRC/16/NGO/41, A/HRC/17/NGO/15, A/HRC/19/NGO/36, A/HRC/20/NGO/41, A/HRC/21/NGO/56 and A/HRC/22/NGO/61.

[2] International Educational Development, *Judicial Reform in Somalia*, A/HRC/24/NGO/23 (28 August 2013). Available at: http://www.undocs.org/A/HRC/24/NGO/23.

[3] See press statements of 13 December 2014 (UN News Centre), 15 December 2014 (OHCHR News events) and 15 December 2014 (UNOG).

[4] See press statement of 28 May 2015 (UNSOM).

[5] Some of points we have made regarding the clear need for a functioning and independent judiciary include the need to better protect the right to justice for citizens, help Somalis gain more confidence in the FGS. Having a strong judiciary will also help combat crime and lead to quicker resolutions of civil issues, including land and contract disputes. It will also create more transparency in the government and help to counter corruption. Moreover, it will lead to job creation within the justice sector. Significantly, if the judicial system in Somalia is effectively reformed, it will provide a solid foundation from which human rights can be both promoted and protected.

standards. At the same time, there is an equally dire need for resources for everything from actual structures (schools, courts, prisons and police facilities), training, documentation, oversight and the like. As we have indicated in the past, a roadmap to comprehensive judicial reform would greatly assist in these endeavors. We have submitted an outline for such a roadmap for reform to the Independent Expert after his encouragement in this regard at the 27th session of the Council. We anticipate that he will continue this effort and again pledge our assistance.

As our organizations have pointed out, judicial reform in Somalia is impossible without substantial support from the international community; relying on purely internal resources when there are so many competing and dire situations will bring little change for perhaps another generation. Setting out a roadmap for judicial reforms can encourage the international community to contribute resources for it on a piece by piece bases rather than in lump funds that are difficult to account for or whose effectiveness is difficult to assess. For example, a State that has experience or interest in providing training for police personnel may do so with confidence that the funds will be properly accounted for and the outcomes properly evaluated. Other States may choose to aid in the building of facilities such as courts or law libraries. Still others may prefer assisting in the harmonization of the many disparate systems or assisting in reforms to meet international standards. In this regard, we propose that donor entities interested in judicial reform develop some type of team, with the Independent Expert and the Federal Government of Somalia, so as to act in concert and in a rational manner based on priorities.

Conclusions

Somalia continues to be the country with what seems to be the most problems and the least capacity to address them. Somalia is also located in a very critical part of the world and its security and stability are essential to regional security and stability. The international community as a whole should work in concert to achieve both security and stability in Somalia and the region.

The Independent Expert has carried out his work with commitment to the Somali people and with sensitivity to the many competing issues at stake. His efforts have been comprehensive and highly useful. As he continues his mandate, we urge the international community as a whole and the Council and its mandate holders in particular to support his work and to provide assistance where useful. We especially urge all interested States to review ways in which they can work with the Independent Expert on judicial reform and to provide meaningful resource assistance for judicial reform as a matter of the highest priority.

---

*Association of Humanitarian Lawyers, NGO without consultative status, also shares the views expressed in this statement.